

187254

RICHARDSON
RICHARDSON PLOWDEN CARPENTER ROBINSON, P.A.
PLOWDEN
ATTORNEYS AT LAW

COLUMBIA P.O. Drawer 7788 • Columbia, SC 29202
1900 Barnwell St., Columbia, SC 29201 P 803.771.4400 F 803.779.0016

MYRTLE BEACH P.O. Box 3646 • Myrtle Beach, SC 29578
203 Farlow St., Suite B, Myrtle Beach, SC 29577 P 843.448.1008 F 843.448.1533

www.RichardsonPlowden.com

Reply to: Columbia
Email: shamm@rpclaw.com
Private Line: 803-576-3713

July 16, 2007

Via Hand Delivery

The Honorable Charles L. A. Terreni
Chief Clerk and Administrator
The Public Service Commission of S.C.
P. O. Drawer 11649
Columbia, S.C. 29211

RECEIVED
2007 JUL 16 PM 3:57
SOUTH CAROLINA
COMMISSION

RE: Docket No. 2006-37-C/Petition of the Office of Regulatory Staff for a Rule-Making Proceeding to Examine the Requirements and Standards to Be Used by the Commission When Evaluating Applications for Eligible Telecommunications Carrier ("ETC") Status and When Making Annual Certification of ETC Compliance to the Federal Communications Commission

Dear Mr. Terreni:

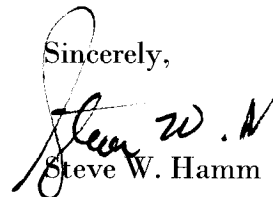
Enclosed for filing are an original and one copy of Verizon South Inc.'s ("Verizon") Comments in response to the filing made at the workshop on June 26, 2007 by the South Carolina Telephone Coalition (the "Coalition") concerning eligibility requirements; to the comments filed on June 25, 2007 by Hargray Wireless, LLC ("Hargray") concerning eligibility requirements; to the comments filed on June 15, 2007 by AT&T South Carolina ("AT&T") concerning annual certification requirements; and to the comments filed on June 15, 2007 by United Telephone Company of the Carolinas d/b/a Embarq and Embarq Communications, Inc., the Office of Regulatory Staff and Alltel Communications, Inc. concerning annual certification requirements.

By copy of this letter, I am serving all parties of record with a copy of the Comments as indicated on the attached Certificate of Service.

If you should have any questions concerning this matter please contact my office.

With kind personal regards, I am

Sincerely,


Steve W. Hamm

Enclosures
cc: All Parties of Record

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NO. 2006-37-C

IN RE:

**Petition of the Office of Regulatory Staff for
a Rule-Making Proceeding to Examine the
Requirements and Standards to Be Used by
the Commission When Evaluating Applications
for Eligible Telecommunications Carrier (ETC)
Status and When Making Annual Certification
of ETC Compliance to the Federal
Communications Commission**

)
)
)
)
)
)
)
)

COMMENTS OF VERIZON SOUTH INC.

RECEIVED
2007 JUL 16 PM 3:58
PUBLIC SERVICE
COMMISSION

VERIZON'S COMMENTS CONCERNING PROPOSED ETC REGULATION

Verizon respectfully submits these comments to respond to the filing made at the workshop on June 26, 2007 by the South Carolina Telephone Coalition (the "Coalition") concerning eligibility requirements; to the comments filed on June 25, 2007 by Hargray Wireless, LLC ("Hargray") concerning eligibility requirements; to the comments filed on June 15, 2007 by AT&T South Carolina ("AT&T") concerning annual certification requirements; and to the comments filed on June 15, 2007 by United Telephone Company of the Carolinas d/b/a Embarq and Embarq Communications, Inc., the Office of Regulatory Staff and Alltel Communications, Inc. (the "Group") concerning annual certification requirements.

A. Response to Coalition Filing Concerning Eligibility Requirements

A number of the Coalition's proposed revisions appear to be designed to ensure that new Eligible Telecommunications Carriers ("ETCs") provide a public benefit that might justify additional burdens on the universal service fund. As a general matter, Verizon shares

the concern that the addition of new ETCs should be limited unless it is crystal clear that they produce a net public benefit beyond the additional costs they impose on the universal service fund.¹ Verizon therefore does not oppose the Coalition's suggested revision that would require the Commission, as part of its public interest analysis in Section 103-690 C(b), to consider "whether the public benefits created by supporting an additional ETC will exceed the public costs of supporting an additional network, and whether the designation will assist in ensuring that consumers in rural and high-cost areas of the state will have access to services similar to those available in urban areas of the state." To satisfy this test in rural areas, the operating costs of improvements and upgrades required to extend service into unserved areas would have to exceed projected universal service receipts. Verizon agrees that this approach makes sense and would help prevent the unwarranted designation of even more ETCs.

Several of the Coalition's other proposed changes, however, are problematic and in several instances are inconsistent with federal law. Four examples of such revisions are addressed below.

1. Requirement that applicant acknowledge Commission's jurisdiction to regulate it as an ETC (A.3). The proposed revision suggests that an applicant must waive any right it might have to contest the Commission's jurisdiction when it seeks ETC status. Purporting to require such a waiver would be inappropriate because the Commission lacks the power to increase its own jurisdiction. Any dispute concerning the Commission's authority should be resolved by a court, not through Commission rulemaking.

¹ Verizon has proposed that presumptive limits on the number of ETCs be established so the new rules will not fuel the growth of the universal service fund.

2. Deletion of provisions that would permit service via modification or replacement of existing customer equipment and deploying a roof mounted antenna or other equipment C(1)(A). The service methods that the Coalition seeks to delete are from FCC Rule 54.202(a)(1)(B) and therefore should not be removed.

3. Requirement that a competitive ETC (“CETC”) offer an unlimited basic local usage plan for approximately \$14.35 per month (C(a)(4)). The initial draft language on comparability is identical to the requirement in FCC Rule 54.202(a)(4). The Coalition’s proposed additional language would require the wireless carrier’s local usage plan to include unlimited basic local usage, which the FCC has not required. Further, it would specify an approximate rate, which would amount to impermissible rate regulation of wireless ETCs under 47 U.S.C. § 332(c)(3)(A). The proposed revision therefore should be rejected.

4. Requirement that after five years a CETC offer supported services exclusively using its own facilities (C(6)). Under 47 U.S.C. § 214(e)(1)(a), an ETC is required to “offer the services that are supported by Federal universal service support mechanisms under section 254(c) . . . either using its own facilities or a combination of its own facilities and resale of another carrier’s services” The Coalition’s proposal that CETCs be required to provide supported services only over their own facilities after five years thus appears to be inconsistent with the Act.

B. Response to Hargray’s Comments Concerning Eligibility Requirements

Hargray proposes three changes to the draft eligibility requirements, each of which is addressed below.

1. Proposed changes to two-year plan requirement. Hargray proposes that the two-year plan requirement be made a rolling requirement and that ETCs be permitted to

report at the county level. Verizon opposes both of those requested changes. The reporting requirement in Section C(a)(1)(B) relates to a carrier's initial certification and it therefore would be inappropriate to include continuing obligations in that section. Progress reports (which Hargray seems to have in mind) are required under Section D(a)(1). Further, the Commission should require that reporting be done on a wire center basis, rather than at the county level, for the reasons explained by AT&T in its June 15 comments.

2. Proposed clarification to local usage plan comparability requirement. Hargray requests that Section C(a)(4) be clarified to ensure that wireless carriers are not required to replicate wireline carriers' rate plans. Although Hargray does not propose specific language, Verizon does not object to its proposal in concept.

3. Proposed deletion of sentence stating that "[t]he Commission will deny ETC designation if it concludes that the potential for creamskimming is contrary to the public interest." In quoting the final sentence of Section C(b), Hargray omits the words "is contrary to the public interest." It is of course appropriate for the Commission to deny an ETC application when it finds that the potential for creamskimming makes the application not in the public interest. The final sentence of Section C(b) therefore should not be deleted.

C. Response to Comments of AT&T Concerning Annual Certification Requirements

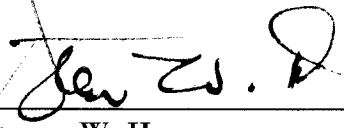
Verizon supports each of the changes proposed by AT&T. In particular, Verizon agrees that under Section C(a)(1) all applicants should be required to submit plans on a wire center-by-wire center basis and that under Section D(a)(1) progress reports should be submitted on a wire center basis.

D. Response to Comments of the Group Concerning Annual Certification Requirements

Verizon supports a number of the changes proposed by the Group. Verizon agrees that the reporting requirements outlined in Section 103-690.2(a) of the Group's proposal only should apply to ETCs designated after June 30, 2006; that only more limited reporting requirements along the lines provided in Section 103-690.2(b) should be required of other ETCs; that the June 30 deadline described in Section 103-690.2(c) would be workable; and that after ETCs designated after June 30, 2006 are relieved of certain reporting responsibilities, they still should be required to submit the reports specified in Section 103-690.2(d).²

Respectfully submitted on July 16, 2007.

By: _____


Steven W. Hamm
C. Jo Anne Wessinger Hill
Richardson, Plowden, Carpenter & Robinson, P.A.
1900 Barnwell Street
Columbia, SC 29202
Tel: (803) 771-4400

Dulaney L. O'Roark III
Verizon South Inc.
6 Concourse Parkway, Ste. 800
Atlanta, Georgia 30328
Phone: (770) 284-5498
Email: de.oroark@verizon.com

Attorneys for Verizon South Inc.

² Verizon notes, however, that the reference to the Interruption of Service report should be to Section 103-614.

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NO. 2006-37-C

IN RE:

Petition of the ORS for a Rule-Making Proceeding)	CERTIFICATE OF SERVICE
to Examine the Requirements and Standards)	
to Be Used by the Commission When Evaluating)	
Applications for ETC Status and When Making)	
Annual Certification of ETC Compliance to)	
<u>the Federal Communications Commission</u>)	

This is to certify that I have caused to be served this day, July 16, 2007, one (1) copy of Verizon's Comments in the above referenced docket by placing a copy of same in the care and custody of the United States Postal Service, first class postage prepaid to the following Parties of Record:

Ms. Nanette S. Edwards, Esquire
Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29211

Joseph Melchers
Chief Counsel
S.C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)

William E. DuRant, Jr., Esquire
Schwartz, McLeod, DuRant & Jordan
10 Law Range
Sumter, SC 29150
(Farmers Telephone Cooperative, Inc.)

David A. LaFuria, Esquire
Lukas, Nace, Gutierrez & Sachs, Chartered
1650 Tysons Boulevard
Suite 1500
McLean, VA 22102
(Hargray Wireless, LLC)

William W. Jones, Jr.
Jones Scheider & Patterson, P. A.
18 Pope Avenue
P. O. Drawer 7049
Hilton Head, SC 29938
(Hargray Wireless, LLC)

Scott Elliott, Esquire
Elliott & Elliott, P. A.
721 Olive Street
Columbia, SC 29205
(United Telephone Company of the
Carolinas and Embarq Comm., Inc.)

Edward Phillips, Attorney
Jack H. Derrick, Senior Attorney
14111 Capital Boulevard
Wake Forest, NC 27587-5900
(United Telephone Company of the
Carolinas and Embarq Comm., Inc.)

Gene V. Coker, Esquire
1230 Peachtree Street, NE
Fourth Floor
Atlanta, Georgia 30309
(AT&T)

William E. DuRant, Jr., Esquire
Schwartz, McLeod, DuRant & Jordan
10 Law Range
Sumter, SC 29150
(Farmers Telephone Cooperative, Inc.)

David A. LaFuria, Esquire
Lukas, Nace, Gutierrez & Sachs, Chartered
1650 Tysons Boulevard
Suite 1500
McLean, VA 22102
(Hargray Wireless, LLC)

William W. Jones, Jr.
Jones Scheider & Patterson, P. A.
18 Pope Avenue
P. O. Drawer 7049
Hilton Head, SC 29938
(Hargray Wireless, LLC)

Scott Elliott, Esquire
Elliott & Elliott, P. A.
721 Olive Street
Columbia, SC 29205
(United Telephone Company of the
Carolinas and Embarq Comm., Inc.)

Edward Phillips, Attorney
Jack H. Derrick, Senior Attorney
14111 Capital Boulevard
Wake Forest, NC 27587-5900
(United Telephone Company of the
Carolinas and Embarq Comm., Inc.)

Gene V. Coker, Esquire
1230 Peachtree Street, NE
Fourth Floor
Atlanta, Georgia 30309
(AT&T)